

Serial No. 10/064,327

37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

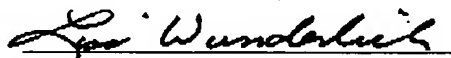
- (A) reduction to practice of the invention prior to the effective date of the reference; or
- (B) conception of the invention prior to the effective date of the reference coupled with the diligence from prior to the reference date to a subsequent (actual) reduction to practice; or
- (C) conception of the invention prior to the effective date of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

Applicant submitted a declaration stating that a prototype of the claimed invention was constructed prior to the § 371(c)(1), (2), (4) filing date of Stürmer patent. Accordingly, the Applicant has shown sufficient evidence that the complete claimed invention was actually reduced to practice prior to the effective date of the reference in satisfaction of the above part (A). Therefore, Applicant need not also show due diligence from prior to the date to a subsequent reduction to practice or to the filing of the application according to the above part (B) or (C). For this reason, the rejection of claims 1, 2, 4, 6 and 7 should be withdrawn.

This reply is believed to be fully responsive to the comments and suggestions of the Examiner and to place this application in condition for allowance. Favorable action is requested.

Respectfully submitted,

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